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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA  
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11 JOHN VANCE ROCHA,

12 Petitioner,

13 v.

14 UNKNOWN,

15 Respondent.  
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Case No. 1:18-cv-00791-EPG-HC

ORDER TRANSFERRING CASE TO THE  
NORTHERN DISTRICT OF CALIFORNIA

17 Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus  
18 pursuant to 28 U.S.C. § 2254.

19 When a prisoner files a state habeas petition in a state that contains two or more federal  
20 judicial districts, the petition may be filed in either the judicial district in which the petitioner is  
21 presently confined or the judicial district in which he was convicted and sentenced. See 28  
22 U.S.C. § 2241(d); Rumsfeld v. Padilla, 542 U.S. 426, 442 (2004) (quoting Carbo v. United  
23 States, 364 U.S. 611, 618, 81 S. Ct. 338, 5 L. Ed. 2d 329 (1961)). Petitions challenging the  
24 execution of a sentence are preferably heard in the district where the inmate is confined. See  
25 Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989). Petitions challenging convictions or  
26 sentences are preferably heard in the district of conviction. See Laue v. Nelson, 279 F. Supp.  
27 265, 266 (N.D. Cal. 1968). Section 2241 further states that, rather than dismissing an improperly  
28 filed action, a district court, “in the exercise of its discretion and in furtherance of justice[,] may

1 transfer” the habeas petition to another federal district for hearing and determination. Id.; see also  
2 28 U.S.C. § 1404(a) (court may transfer any civil action “to any other district or division where it  
3 might have been brought” for convenience of parties or “in the interest of justice”).

4 Here, Petitioner’s claims relate to his conviction and sentence that occurred in the Santa  
5 Clara County Superior Court, and thus, the petition is preferably heard in the district of  
6 conviction, which is the Northern District of California. Therefore, this action will be transferred.

7 Accordingly, IT IS HEREBY ORDERED that this action is transferred to the United  
8 States District Court for the Northern District of California.

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10 IT IS SO ORDERED.

11 Dated: June 12, 2018

12 /s/ Eric P. Grogg  
13 UNITED STATES MAGISTRATE JUDGE  
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